IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1816 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

==========

NANUBHAI VITHALBHAI VAGHANI

Versus

STATE OF GUJARAT

Appearance:

MR BM MANGUKIYA for Petitioner No. 1

MR IM PANDYA A.G.P. for Respondent No. 1,2,AND 7

MR SHIRISH JOSHI for Respondent No. 3,6

MR GM JOSHI for RespondentS No.4 AND 5

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 30/04/2002

ORAL JUDGEMENT

Rule. Mr.I.M.Pandya, learned A.G.P. for respondents nos.1,2 and 7 Mr.Shirish Joshi for respondents nos. 3 and 6, Mr.G.M.Joshi for respondents nos. 3 and 5 waive service of rule. With the consent of the parties, the matter is taken up for final hearing.

2. The present petition is preferred by the

petitioner for appropriate direction to the respondents authority to hold the election of the memebrs of the managing committee of Bhavnagar District Cooperative Bank Limited, respondent no.3 herein.

3. Mr.Mangukiya for the petitioner submitted that the term of the members of the managing committee has expired on 31.3.2002 and as per the provisions of the Act, the process of election must be started as early as possible and hence, there was no reason not to proceed with the election. Mr.Mangukiya submitted that inspite of this, no steps are taken by the authority for holding the election and ,therefore, he submitted that appropriate direction may be given to the authority for holding the election of the bank so that the democratic principles may be maintained.

4. On behalf of the respondents- bank, Mr.Joshi submitted that the byelaws of the bank are already amended and as the result thereof, the members of the Savarkundla Taluka are excluded for the purpose of participating in the election of the members of the managing committee. However, Mr.Joshi submitted that the question of amendment of the byelaws is taken up in revision by the Joint Registrar and the matter is pending. Mr.Joshi submitted that there is no objection on the part of the bank in holding the election as per the existing byelaws of the society. On behalf of the State Government and the election authority, Mr.I.M.Pandya learned A.G.P. has also submitted that there is no objection in holding the election as per the existing byelaws of the society.

5. Considering the overall facts and circumstances of the case, and more particularly in view of the provisions of Section 145 [c] of the Act, I am of the opinion that it is obligatory on the part of the authority to initiate the process for holding the election of the members of the managing committee of a specified cooperative society and to complete the same one month prior to the expiry of the statutory term. There is no dispute on the point that the statutory term of the members of the managing committee has expired on 31.3.2002. Considering the fact that the term was to expired on 31.3.2002, it is obligatory on part of the authorities to hold election to initiate the process and to hold election and to complete the same prior to one month from the date of expiry of the statutory term. However, no steps are taken and therefore, I find it proper to give direction to the Deputy Collector who is a election authority to initiate the process of election

and to hold the election of the managing committee of respondent no.3 bank as per existing byelaws of the society on the basis of the voters list existing on 31.3.2002 and the said election must be completed within a period of three months from today.

6. Petition is allowed to the aforesaid extent. Rule made absolute accordingly. No order as to costs. Direct service permitted.

30.4.2002 [JAYANT PATEL, J]
S.SHAKUNTALA